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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 DARNELL MCGARY,

11 Plaintiff,

12 v.

13 RONALD CULPEPPER et al.

14 Defendant.

CASE NO. C05-5376-RBL-JRC

ORDER AMENDING THE  
SCHEDULING ORDER

15 This 42 U.S.C. § 1983 civil rights action has been referred to the undersigned  
16 Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate  
17 Judge Rules MJR 1, MJR 3, and MJR 4. The parties have stipulated to an amended  
18 scheduling order (ECF No. 153). The court adopts the stipulation and orders:  
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20 Discovery

21 All discovery shall be completed by March 30, 2012. Service of responses to  
22 interrogatories and to requests to produce, and the taking of depositions shall be  
23 completed by this date. Federal Rule of Civil Procedure 33(b)(3) requires answers or  
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1 objections to be served within thirty (30) days after service of the interrogatories. The  
2 serving party, therefore, must serve his/her interrogatories at least thirty (30) days before  
3 the deadline in order to allow the other party time to answer.

#### 4 Motions

5 Any dispositive motion shall be filed and served on or before April 27, 2012. The  
6 motion shall include in its caption (immediately below the title of the motion) a  
7 designation of the Friday upon which the motion is to be noted upon the court's calendar.  
8 That date shall be the fourth Friday following filing of the dispositive motion. All briefs  
9 and affidavits in opposition to any motion shall be filed and served not later than 4:30  
10 p.m. on the Monday immediately preceding the Friday appointed for consideration of the  
11 motion. If a party fails to file and serve timely opposition to a motion, the court may  
12 deem any opposition to be without merit. The party making the motion may file, not later  
13 than 4:30 p.m. on the Thursday immediately preceding the Friday designated for  
14 consideration of the motion, a response to the opposing party's briefs and affidavits. The  
15 documents must indicate in the upper right-hand corner the name of the magistrate judge  
16 to whom the documents are to be delivered.

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18 If a motion for summary judgment is filed, it is important for the opposing party to  
19 note the following:

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21 A motion for summary judgment under Rule 56 of the Federal Rules of  
Civil Procedure will, if granted, end your case.

22 Rule 56 tells you what you must do in order to oppose a motion for  
23 summary judgment. Generally, summary judgment must be granted when there is  
24 no genuine issue of material fact -- that is, if there is no real dispute about any fact  
that would affect the result of your case, the party who asked for summary  
judgment is entitled to judgment as a matter of law, which will end your case.

1 When a party you are suing makes a motion for summary judgment that is  
2 properly supported by declarations (or other sworn testimony), you cannot simply  
3 rely on what your complaint says. Instead, you must set out specific facts in  
4 declarations, deposition, answers to interrogatories, or authenticated documents, as  
5 provided in Rule 56(e), that contradict the facts shown in the defendant's  
6 declarations and documents and show that there is a genuine issue of material fact  
7 for trial. If you do not submit your own evidence in opposition, summary  
8 judgment, if appropriate, may be entered against you. If summary judgment is  
9 granted, your case will be dismissed and there will be no trial.

10 Rand v. Rowland, 154 F.3d 952, 962-963 (9th Cir. 1998). Furthermore, Local Rule CR  
11 7(b)(4) states that a party's failure to file necessary documents in opposition to a motion  
12 for summary judgment may be deemed by the court to be an admission that the  
13 opposition is without merit.

#### 14 Joint Status Report

15 Counsel and pro se parties are directed to confer and provide the court with a joint  
16 status report by no later than August 31, 2012. The joint status report shall contain the  
17 following information by corresponding paragraph numbers:

- 18 1. A short and concise statement of the case, including the remaining legal  
19 and factual issues to be determined at trial;
- 20 2. A narrative written statement from each party setting forth the facts that  
21 will be offered by oral or written documentary evidence at trial;
- 22 3. A list of all exhibits to be offered into evidence at trial;
- 23 4. A list of the names and addresses of all the witnesses each party intends to  
24 call along with a short summary of anticipated testimony of each witness.

1           5.       Whether the parties agree to arbitration or mediation under this district's  
2 arbitration program, and if so whether the arbitration will be final and conclusive or the  
3 right to trial de novo will be preserved (see Local Rule CR 39.1(d));

4           6.       Whether the case should be bifurcated by trying the liability issues before  
5 the damages issues, or specially managed in any other way;

6           7.       Any other suggestions for shortening or simplifying the trial in this case;

7           8.       The date the case will be ready for trial, considering Local Rule CR 16  
8 deadlines;

9           9.       The dates on which trial counsel are unavailable and any other  
10 complications to be considered in setting a trial date;

11          10.      Whether the trial will by jury or non-jury;

12          11.      The number of trial days required, and suggestions for shortening trial;

13          12.      The names, addresses, and telephone numbers of all trial counsel and  
14 unrepresented (pro se) parties who intend to appear at trial.  
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16               If the parties are unable to agree on any part of the report, they may answer in  
17 separate paragraphs. Separate reports are not to be filed. Plaintiff's counsel (or plaintiff,  
18 if pro se) will be responsible for initiating communications for the preparation of the joint  
19 status report.

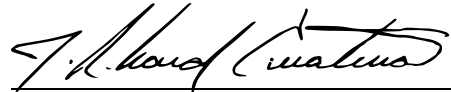
20                               Proof of Service & Sanctions

21               All motions, pretrial statements and other filings shall be accompanied by proof  
22 that such documents have been served upon counsel for the opposing party (or upon any  
23 party acting pro se). The proof shall show the day and manner of service and may be by  
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1 written acknowledgment of service, by certificate of a member of the bar of this court, by  
2 affidavit of the person who served the papers, or by any other proof satisfactory to the  
3 court. Such proof of service shall accompany both the original and duplicates filed with  
4 the Clerk. Failure to comply with the provisions of this Order can result in  
5 dismissal/default judgment or other appropriate sanctions.

6 The Clerk of Court is directed to send a copy of this Order to plaintiff.

7 DATED this 31st day of August 2011.

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10 J. Richard Creatura  
11 United States Magistrate Judge  
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